

REMARKS

Applicant thanks the Examiner for the consideration given the present application, and agrees that the prosecution of this case has been at the very least, frustrating. Applicant appreciates the Examiner's suggestion that we seek refund for fees in this case. But given the limited number of hours in the day for all parties concerned, we will devote our efforts to resolving the prosecution of this case. With that in mind, please consider the following remarks.

The Rejection Under 35 U.S.C. § 102(b)

The Examiner has rejected Claims 11-15, 17-20 and 22-31 under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 3,681,091, to Kohl et al. The Applicant respectfully traverses this Rejection.

But in the spirit of progressing the prosecution of this case, the Examiner has stated that the present method claims, specifically, claim 23 and the claims depending therefrom, would be allowable with the amendment made herein. Without addressing the rejection under 35 U.S.C. § 102(b) in the present case, the claims that are not drawn to a method have been cancelled, and the method claims have been amended according to the Examiner's suggestion.

More specifically, the Examiner has stated that method claims containing the language:

"a method of treating dental erosion comprising orally administering to a mammal in need thereof an effective amount of a beverage composition..."

are allowable. As stated throughout the present specification, drinking low pH beverages contributes to dental erosion. Thus, anyone drinking a low pH beverage composition is in need of the compositions of the present invention. On a broader scale, all mammals need liquids to survive, so to a certain extent, we are all always in need of beverages. Regardless, it is believed that the present amendments obviate the present rejection under 35 U.S.C. § 102(b).

CONCLUSION

It is respectfully submitted that the Examiner's rejection of Claims 11-15, 17-20, and 22-31 under 35 U.S.C. §§ 102 (b), has been obviated by the present amendments. A withdrawal of this rejection and the issuance of a prompt Notice of Allowability is therefore respectfully requested.

Respectfully submitted,
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